



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

II. BOOK REVIEWS.

THE LAW OF WATERS AND WATER RIGHTS, International, National, State, Municipal, and Individual, including Irrigation, Drainage, and Municipal Water Supply. By Henry Philip Farnham. In three volumes. Rochester, N. Y.: The Lawyers' Co-operative Publishing Company. 1904. pp. clxxx, 1-896; xvi, 897-1893; xiv, 1894-2956. 8vo.

When one stops and thinks of the innumerable ways in which water enters into our lives and dealings, one recognizes at once the immense task of the author who attempts to collect into one systematic legal treatise "every case that is wet." Such, however, in his own language, has been the undertaking of Mr. Farnham, the results of which the publishers have now laid before the public. The labor of the author has covered a period of twelve years. The author tells us that he has during this time examined all American reports, page by page, and that all English cases which have been referred to by digests, text-writers, or judges, as involving the question of water rights, have been read. Mr. Farnham's experience and position as associate editor of the *Lawyers' Reports Annotated* have made it possible for him to accomplish this work within what would otherwise have been prohibitive time and expense. The result has been a collection of seventeen thousand cases.

The three volumes cover about three thousand pages. The general plan of Mr. Farnham's work is unique and commendable. The rights and duties with respect to waters depend primarily on the relations which the opposing parties bear toward each other. The rights and duties of governments and nations in their relations to each other are different from those which exist in their relations to their own subjects, and the rights and duties between sovereign and subject are, again, different from those existing solely between subjects. Therefore it would seem that the author has properly divided the general subject of waters so as to show the rights depending on these different relations, and not, as is the usual method of division, on the mere characteristics of the body of water on or about which a particular right arises. Accordingly there are three main divisions of the work: I. Rights of States and Nations; II. Rights between Public and Individual; III. Rights between Individuals.

The principal subdivisions of the first part are "Coast waters," "Laws in force on the high seas," "Boundary rivers," and "Relation between the United States and State governments." The treatment of the last subdivision is the least satisfactory portion of Mr. Farnham's book. The subject is worth another entire volume, and the forty pages given it are woefully insufficient.

The second portion of the work, covering fourteen hundred pages, relates to rights between the public and individuals. First in importance in this division are the titles of "Municipal water supply" and "Drainage." In the discussion of the former, Mr. Farnham has been carried by the character of his undertaking into all the intricacies involved in the controversy over the extent of the power of a municipality to own and control public utilities and to borrow money. This portion of the book is particularly praiseworthy. Other important subdivisions of this part are "Title to bed and shores of water ways," "Rights of riparian owners," and "Bridges, fords, levees, and other public improvements."

Just one-half of the work is given up to the third part, "Rights between Individuals." The first two hundred pages are taken up by a discussion of the rights of riparian owners in watercourses. A comparison of these pages with those occupied by the treatment of these same questions when they arise between the public and individuals will completely justify the author's plan, and explain many of the apparent inconsistencies in the decisions and in the statements of text-writers. The next one hundred and fifty pages are consumed by a discussion of the right to dam back the waters of a stream. It would

have been better if the "Mill Acts" had been discussed in connection with this last heading instead of being given a separate and independent treatment after the discussion of "Irrigation" and "Appropriation." The two hundred and fifty pages given to these last-named subjects will form the most interesting and important portion of the work for the legal profession in the arid and semi-arid states of the West. It is important as being the latest thorough treatment of these growing and difficult problems of our law. The most important of the remaining topics concern the form and construction of grants and contracts, licenses, easements, surface water and drainage, subterranean waters, and rights between landlord and tenant.

In enumerating these different subdivisions, it has not been attempted to give them all. Those have been chosen which have appeared particularly complete or for other reasons exceptionally worthy of notice. Nor has it been possible to go into detail with regard to the author's legal views as to particular principles or cases. So far, however, as it has been possible to form an opinion, they seem, in general, accurate. Slight inaccuracies have been noticed, but these were only such as are inevitable in a work of this character. If a general criticism be allowed, it is this, that the text at places takes too much the form of a digest.

There is one feature of the work that is sufficient alone to win for the work a place in every legal library. Nothing is so discouraging to a lawyer as to run across the statement of a general principle for which are cited in a note a long line of cases merely by their reports and pages, compelling the lawyer to search through them all, only to find, perhaps, that few, if any, are similar enough in their facts to be of service. In the notes to the present work, enough facts of a case are generally stated to avoid this difficulty.

As a general rule it is believed the production of legal works of large scope should be discouraged. With the exception of a few notable treatises the legal works covering broad subjects are now of little use to the practising lawyer. His needs are best met by the book which embraces a small field and in that field gives to the cases and principles a profound and careful examination and discussion. Mr. Farnham's comprehensive treatise must be regarded as a clear exception to the general rule. While the statement of a recent writer that this work "is destined to become one of the greatest law books of the age" is perhaps extravagant, it may fairly be said that, considering its scope, Mr. Farnham's work is surprisingly accurate, thorough, and complete. J. M. B. JR.

A TREATISE ON STREET RAILWAY ACCIDENT LAW. By Ellery H. Clark. Second Edition. St. Paul, Minn: Keefe-Davidson Company. 1904. pp. xv, 607. 8vo.

STREET RAILROAD ACCIDENT LAW. A complete treatise on the principles and rules of law applied by the courts of the states and territories of the United States and Canada in determining the liability of street railroads, for injuries to the person and property by accidents to passengers, employees, and travellers on the public streets and highways, and on pleading and practice in the various jurisdictions in street railroad accident litigation. By Andrew J. Nellis. Albany, N. Y.: Matthew Bender. 1904. pp. cxii, 711. 8vo.

These two books cover practically the same ground and are in many points very similar. There is however a field for both of them, for our modern street railway has become such a predominating factor in present-day tort litigation that no one volume dealing with this topic can satisfy the demands of the profession.

The first of these two treatises is a second edition of an earlier work by the same author devoted exclusively to street railway accident law in Massachusetts. It is a revision and amplification of the former work, and is based upon the same general plan. The different topics are however treated much